IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.09.2005

CORAM

THE HONOURABLE MR.JUSTICE D.MURUGESAN

W.P.No.30901 of 2004

R.Kaaruppan .. Petitioner

-Vs-

1. R.Dhanapalraj
   Chairman
   Bar Council of Tamil Nadu
   Chennai-104

2. The Bar Council of Tamil Nadu
   represented by its Secretary
   Chennai-104 .. Respondents

Petition filed under Article 226 of The Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records on the file of the second respondent in his proceedings in R.O.C.No.745 of 2004 dated 11.10.2004 and quash the same and direct the respondents not to take any further action against the petitioner with regard to the full bench judgment in C.A.No.1134 of 2003 dated 17.4.2004 and direct the first respondent in his personal capacity to pay a compensation of Rs.10,00,000/-.

For Petitioner :: Mr.R.Kaaruppan
Party-in-Person

For Respondents : Mr.K.Venkatakrishnan

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ORDER

An important issue as to whether an Advocate, who has been found guilty for contempt of Court, could be prevented by the State Bar Council from appearing in Court, till such time he purges the act of contempt has arisen for consideration. For a decision on the said issue, a glance of the role and responsibility of an Advocate, the duty of the Bar Council vis-à-vis the majesty of the judiciary as an institution for a free and fair administration of justice must first be discussed.

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2. While considering the petition for interim orders, I had discussed the issue in my order dated 18.11.2004. I deem it necessary to reiterate the same in this order. The rule of law

is the foundation of a democratic society. The judiciary is the guardian of the rule of law and if the judiciary is to perform its duties and functions effectively and remain true to the spirit with which it is sacredly entrusted, the dignity and authority of the Courts should be respected and protected. It is for this reason the Courts are entrusted with the extraordinary power of punishing those for contempt of Court who indulge in acts whether inside or outside Courts which tend to undermine the authority of the Courts and bring them any disrepute and disrespect thereby obstructing them from discharging their judicial duties without fear or favour. The foundation of the judiciary is the trust and the confidence of the people in its ability to deliver fearless and impartial justice and as such, no action can be permitted which may shake the very foundation itself.

3. The role of an Advocate to uphold the majesty, dignity and decorum of the Court is paramount in the free and fair administration of justice. No one can be allowed to do anything, which embarrass the administration of justice. Even actual interference with the administration of justice is not a requirement, as it is enough for such interference is likely or tends in any way to interfere in the proper administration of law. An intention to interfere with the administration of justice is not essential to constitute contempt of Court. An Advocate is an officer of the Court. In the justice delivery system, members of the Bar are as much a party thereby as the justice and it is the closest possible harmony between the Bar and the Bench that can yield the best results in achieving the objectives enshrined in our Constitutional Document. It is needless to mention that the Bar and the Bench are two sides of a coin. In the administration of justice unless harmony prevails between the Bar and the Bench, no desired results to uphold the majesty of the institution could be achieved.

4. The power and the role of the Bar Council vis-à-vis its members can be well explained by the following paragraphs of the Supreme Court judgment in "C.RAVICHANDRAN IYER v. JUSTICE A.M.BHATTACHARJEE AND OTHERS (1995 (5) SCC 457)". Justice K.Ramaswamy, speaking for the Bench, had observed as follows:-

> "The Advocates Act, 1961 gave autonomy to a Bar Council of a State or Bar Council of India and Section 6(1) empowers them to make such action deemed necessary to set their house in order, to prevent fall in professional conduct and to punish the incorrigible as not befitting the noble profession apart from admission of the advocates on its roll. Section 6(1)(c) and rules made in that behalf, Sections 9, 35, 36, 36-B and 37 enjoin it to entertain and determine cases of misconduct against advocates on its roll. The members of the judiciary are drawn primarily and invariably from the Bar at different levels. The high moral, ethical and professional standards among the members of the Bar are preconditions even for high ethical standards of the Bench.

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Degeneration thereof inevitably has its eruption and tends to reflect the other side of the coin. The Bar Council, therefore, is enjoined by the Advocates Act to maintain high moral, ethical and professional standards."

5. The expression of painful thought of Justice A.M.Ahmadi, J., speaking for the Bench of the Supreme Court in "M.B.SANGHI, ADVOCATE v. HIGH COURT OF PUNJAB AND HARYANA (1991 (3) SCC 600)" must have a mention and the same reads hereunder:-

"It is high time that we realize that the much cherished judicial independence has to be protected not only from the executive or the legislature but also from those who are an integral part of the system. An independent judiciary is of vital importance to any free society. Judicial independence was not achieved overnight. Since we have inherited this concept from the British, it would not be out of place to mention the struggle strong-willed judges like Sir Edward Coke, Chief Justice of the Common Pleas, and many others had to put up with the Crown as well as the Parliament at considerable personal risk. And when a member of the profession like the appellant who should know better so lightly trifles with the much endeared concept of judicial independence to secure small gains it only betrays a lack of respect for the martyrs of judicial independence and for the institution itself. Their sacrifice would go waste if we are not jealous to protect the fair name of the judiciary from unwarranted attacks on its independence....

When a member of the bar is required to be punished for use of contemptuous language it is highly painful - it pleases none - but painful duties have to be performed to uphold the honour and dignity of the individual judge and his office and the prestige of the institution. Courts are generally slow in using their contempt jurisdiction against erring members of the profession in the hope that the concerned Bar Council will chasten its member for failure to maintain proper ethical norms. If timely action is taken by Bar Councils, the decline in the ethical values can be easily arrested."

6. The Bar Council is competent to chasten its members for failure to maintain proper ethical norms and the Supreme Court had approved not only the power of the Bar Council, but also its corresponding duties and obligations in correcting its members. While dealing with a review petition filed by an Advocate as a petitioner/party-in-person, the Supreme Court in "UNION OF INDIA AND OTHERS v. GULSHAN BAJWA (2003 (7) SCC 545)" after observing that the conduct of the Advocate in filing a review petition containing baseless allegations and insinuations reflecting on the conduct of Judges of the Court did no credit to the noble

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profession to which he belonged, referred the matter to the Bar Council of India for such action as it may consider appropriate.

7. Mr.R.Kaaruppan, a former President of the renowned and historical Madras High Court Advocates Association, was found guilty under Section 2(c) of the Contempt of Courts Act and was sentenced to pay a fine of Re.1/= to be paid within one month, in default to undergo one day simple imprisonment, by a Division Bench of this Court in "R.KARUPPAN v. THE PATRON OF CHENNAI RIFLE CLUB, RAJ BHAVAN, CHENNAI AND OTHERS (2004 (1) M.L.J. 153)". He paid the said fine amount. Again on a suo motu contempt proceedings initiated against him, a Full Bench of this Court by an order dated 17.4.2004 in Suo Motu Contempt Petition No.1134 of 2003, finding him guilty of contempt for making scurrilous, offensive allegations against the Judges of this Court, sentenced him to undergo simple imprisonment for a period of three months and with a fine of Rs.1,000/-, in default to undergo simple imprisonment for three months. After observing that the petitioner had abused his professional privileges while practicing as an Advocate and his conduct was highly contumacious and unpardonable, the Full Bench referred the matter to be considered by the State Bar Council to take appropriate action in accordance with law. The Full Bench also directed the Registry to forward a copy of the order to the State Bar Council for taking appropriate action by following the required procedure. After the judgment was pronounced and at the request of the petitioner, the sentence of imprisonment alone was suspended for eight weeks subject to the condition that the petitioner pays the fine amount of Rs.1,000/= by 19.4.2004. The petitioner had paid the amount.

8. By a notice dated 23.4.2004, the Secretary In-charge of the Bar Council of Tamil Nadu, drawing the attention of the petitioner to the judgment of the Full Bench, directed him to show cause within 15 days of the receipt of the said notice as to why disciplinary proceedings should not be initiated against him for professional and other misconduct in accordance with the rules framed by the Bar Council of India under the Advocates Act. By responding to the said notice, the petitioner in his explanation dated 2.5.2004 requested the Bar Council to discharge the said notice and await the orders of the Supreme Court. The said letter needs full extraction and reads as under:-

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R.Kaaruppan

59, Law Chambers
High Court Buildings
Chennai-104

To
The Secretary
Bar Council of India
High Court Campus
Chennai 600 104

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Dear Sirs,

I am in receipt of your notice asking me to show cause against the suo motu contempt petition no.1134 of 2004 dated 17.4.2004. In the said notice you have referred to a copy of the letter of Deputy Registrar of the High Court in R.O.C.No.1475 of 2004 (O.S.)

The said judgment is under suspension for 8 weeks. The said aspect has already been stated in the judgment copy itself. I guess that the said portion suspending the sentence is not found in the copy sent to you and only due to the same you have issued this notice to me. Kindly confirm the same to me. As well send the letter of the Deputy Registrar.

Since no action can be taken on the basis of the judgment when the very sentence is suspended, I request you discharge the present notice and await the orders of the Supreme Court.

Yours truly,
Sd/-
R.Kaaruppan
5.2.2004

As the petitioner requested for discharge of the said notice on the ground that the matter was pending before the Supreme Court, apparently the Bar Council did not pursue the notice for initiating disciplinary proceedings. On the other hand, by the impugned order dated 11.10.2004, the Bar Council, by placing reliance on Rule 14 of the Madras High Court Rules framed by the High Court in exercise of its powers under Section 34(1) of the Advocates Act, prohibited the petitioner from appearing in any Court until he purges the act of contempt. He was also directed to surrender the original enrollment certificate and the identity card issued to him within 3 days from the date of receipt of the said order. The petitioner was also informed that the prohibitory order was not by way of punishment, as the same should remain in force only till the guilt of contempt remains and the same shall stand automatically terminated in the event the petitioner is absolved from the guilt of contempt.

9. Mr.R.Kaaruppan, party-in-person, would challenge the impugned order on the following grounds. Firstly, when Rule 14 of the High Court Rules came into force, the provision of appeal under Section 19 of the Contempt of Courts Act, 1971 was not available to a person aggrieved by the order punishing him for contempt. By the provision of appeal, Rule 14 stands automatically abrogated. He would also submit that when the 25 point code of conduct was drawn and notified, Rule 24, which was similar to Rule 14 of the old Rules, was introduced. The Full Court had later on withdrawn the 25 point code of conduct and therefore Rule 14 also should be deemed to have been withdrawn.

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Secondly, he would submit that in any case Rule 14 of the Rules would apply only in the case of an Advocate who had committed contempt of Court in the capacity of an Advocate and not when such Advocate is found guilty when he appeared as a party-in-person. As the petitioner appeared in his individual capacity as party-in-person, the said Rule is not applicable to him. Thirdly, he would submit that assuming Rule 14 is still in force, even the High Court, which framed the Rules, did not thought it fit to apply the Rules after the judgment of the Full Bench and therefore the State Bar Council cannot invoke the said Rule. Fourthly, he would submit that when once the petitioner is released on bail, in terms of sub-section (2) of Section 19 of the Contempt of Courts Act read with Section 389 of the Code of Criminal Procedure, the sentence is deemed to have been suspended and therefore the judgment of the Full Bench cannot be a ground for invoking Rule 14. Lastly, he would submit that in any case the right of an Advocate to practice cannot be taken away by the Bar Council without following any procedure by affording opportunity to the petitioner, as the right to practice apart from appearing before Courts includes right to file Vakalat, draft pleadings, take instruction from clients etc. By the impugned order, the petitioner has not only been prohibited from appearing in Courts, but also was directed to surrender his original enrollment certificate and identity card. He relied upon the following judgments of the Supreme Court in "BAR COUNCIL OF INDIA v. HIGH COURT OF KERALA (2004 AIR SCW 2684)", "PRAVIN C.SHAH v. K.A.MOHD. ALI AND ANOTHER (2001 AIR SCW 4193)" as well the judgment of the Mysore High Court in "T.VENKANNA v. THE HON'BLE HIGH COURT OF MYSORE BY ITS REGISTRAR AND ANOTHER (AIR 1973 MYSORE 127)".

10. In response to the above submissions, Mr.K.Venkatakrishnan, learned counsel appearing for the Bar Council of Tamil Nadu as well for Mr.R.Dhanapalraj, Chairman of the Bar Council of Tamil Nadu, who has been impleaded in his personal capacity, submitted that the High Court rules have been notified on 21.1.70. The action taken by the Bar Council was pursuant to the directions of the Full Bench. Though initially a show cause notice for professional misconduct was issued, in view of the explanation of the petitioner that the order in the contempt petition was suspended for eight weeks, no further action was taken. As no reply was received from the petitioner even after the expiry of the period of eight weeks, the impugned order was passed. So far, the petitioner has not purged the contempt. After having waited for almost six months, the meeting of the general council was held on 9.10.2004 and by a majority it was resolved to pass the impugned order. He would submit that it is the duty of the Bar Council to safeguard the rights, privileges and interest of the Advocates on its roll. The interest of Advocates includes the Advocates to practice the profession in a dignified manner and in the event the conduct of an Advocate was not in any way in advancement of the interest of the Advocate, the Bar Council is entitled to take action. By placing reliance on Rule 14 of the High Court Rules, the impugned order has been passed in order to uphold the rule of law and the dignity of the profession as well in the interest of public. He would further submit that so long as Rule 14 is not repealed in

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the manner required, the petitioner cannot claim that the said rule stands automatically abrogated by virtue of the appeal provision under Section 19 of the Contempt of Courts Act. He would also submit that merely because the petitioner is released on bail, that would not amount to suspension of the order of the Full Bench punishing the petitioner. Hence, the impugned order is well within the power of the State Bar Council.

11. I have carefully considered the above submissions. Rule 14 of the Rules, which has been relied upon by the State Bar Council, reads as follows:-

> "No advocate who has been found guilty of contempt of court shall be permitted to appear, act or plead in any court unless he has purged himself of contempt."

The above rule was notified and came into force on 21.1.70. The rule has not been either amended or modified or repealed so far. In so far as the first submission as to the appellate remedy, it is true that as against the order punishing for contempt, an appeal is provided under Section 19. Sub-section (2) of Section 19 of the Contempt of Courts Act, 1971 is much relied upon by the petitioner, which reads as follows:-

> "Pending any appeal, the appellate court may order that—
> (a) the execution of the punishment or order appealed against be suspended;
> (b) if the appellant is in confinement, he be released on bail; and
> (c) the appeal be heard notwithstanding that the appellant has not purged his contempt."

Prior to coming into force of the Contempt of Courts Act 1971, the Contempt of Courts Act, 1952 was in force. The said Act did not provide for any appeal remedy. Considering the fact that an order passed by a Court in exercise of contempt jurisdiction was treated to be final without there being a remedy of appeal, the provisions of Section 19 was introduced in the 1971 Act. Merely because an appeal provision is made, that will not take away the provisions of Rule 14 framed by the High Court to prevent an Advocate who has been found guilty for contempt of Court from appearing in Courts. Both the Rule and the Section should be read harmoniously and in isolation. The object of Section 19 is only to provide an appeal remedy. The Rules are made by the High Courts in exercise of powers to regulate internal administration and in order to protect the majesty of Court. At no stretch of imagination the provisions of the Contempt of Courts Act, 1971 would curtail or take away either such power of the High Court or the Rules made.

12. The next contention of the petitioner is that when the 25 point code of conduct was introduced, a similar rule was introduced in Rule 24 of the code of conduct and that when the said code of conduct was withdrawn, it must be presumed that Rule 14 also was withdrawn. I am unable to accept the said

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submission. The withdrawal of the code of conduct was only in respect of the 25 point code of conduct which was sought to be brought into force. Though a similar rule was also introduced and the entire code of conduct was withdrawn, so long as the Rule 14 of the High Court Rules, which was notified on 21.1.70, was not specifically withdrawn in the manner known to law, it cannot be contended that by withdrawal of code of conduct the above rule is also deemed to have been withdrawn. For the said reason, I am unable to accept the submission of Mr.R.Kaaruppan.

13. Coming to the second and third submissions, no doubt Rule 14 refers to only an Advocate. In my opinion, the rule cannot be strictly construed, as any such interpretation would defeat the object of the Rule itself. If the rule is construed as contended by Mr.R.Kaaruppan, the Court would be left with no power to prevent a party-in-person, who appears before the Court, commits an act of contempt. The proper rule of construction would be that in exercise of the power, the High Court would be competent to prevent an Advocate even when he appears as party-in-person from appearing in Court till he purges the act of contempt. The word "Advocate" employed in Rule 14 must be understood to mean and include not only an Advocate but also an Advocate appearing as party-in-person before the Court. The rule must be read only in that context and with the object for which it was framed viz., to prevent an Advocate from appearing in Court when he was found guilty of contempt and till such time he purges the same. In this case, the party-in-person is an Advocate and in addition, he is the former President of the Madras High Court Advocates' Association. In this context, it is relevant to note that when an Advocate filed a review petition before the Supreme Court containing baseless allegations and insinuations reflecting on the conduct of Judges, after observing that the conduct did no credit to the noble profession, the Supreme Court in Gulshan Bajwa's case (supra) had directed the Bar Council to take appropriate action against the Advocate. The right of the Bar Council to take action against an Advocate even when such Advocate faced contempt proceedings in personal capacity was recognised by the Supreme Court in the said judgment. As discussed earlier, the rule of law is the foundation of a democratic society and the dignity, decorum and the majesty of law cannot be allowed to be undermined whether it is by an Advocate or a party in person. Merely because an Advocate who is a part of the institution and is expected to uphold the dignity, decorum and the majesty of law while he appears as a party in person cannot be allowed to undermine the majesty of law in any form and at any cost. An Advocate who appears as a party-in-person cannot stand on different footing than an Advocate. The argument of Mr.R.Kaaruppan is that the punishment imposed on him for contempt of Court was not in the capacity of an Advocate, but was in his individual capacity while he appeared as a party in person and therefore the State Bar Council has no power to pass the impugned order. I find no merit in the said submission. The role of the State Bar Council is discussed in the earlier paragraphs of this order. The impugned order was passed only after the Division Bench directed the communication of the copy of the order to the State Bar Council. In that view, it will be well within the duty coupled with the power of State Bar Council

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to pass the impugned order. For the same reasons, the contention of Mr.R.Kaaruppan that even the Full Bench, which passed orders had not invoked the Rule and in that event, the State Bar Council cannot pass orders is also liable to be rejected.

14. In so far as the fourth contention as to the release on bail would automatically amount to suspension of the punishment or order, the provisions of sub-section (2) of Section 19 is explicitly clear. Pending any appeal, the appellate court may order that (a) the execution of the punishment or order appealed against be suspended; (b) if the appellant is in confinement, he be released on bail. The power of the appellate Court in this regard is two fold and is exercisable independently. Merely because a person who has been found guilty of contempt and taken in confinement is released on bail, that would not amount to an automatic order of suspension of the execution of punishment or order. Unless the specific orders of the appellate Court in suspending the execution of punishment or order appealed against, an order punishing an Advocate or a person for contempt of Court cannot be considered to have been automatically suspended. In the absence of such order, Rule 14 would still be made available to restrain such an Advocate or a party in person from appearing in the Court. The power of the appellate Court to suspend the sentence or order is independent of its power to order bail. In case the order or punishment is suspended, the appellant may, as a matter of right, seek an order for bail, as no order punishing him would be in force after it is suspended. However, the converse cannot be either presumed or drawn that when an appellant is released on bail, the punishment or order is not automatically suspended.

15. In regard to the submission on Section 389 of the Code of Criminal Procedure, it must be seen that the said Section would be applicable only in respect of a person convicted of an offence by a criminal Court. Nevertheless, in exercise of the powers under sub-section (1) of Section 389, the appellate Court, for the reasons to be recorded in writing, may order that the execution of the sentence or order appealed against be suspended and also if he is in confinement that he be released on bail or on his own bond. The discretion to suspend the execution of the sentence or order lies on the trial Court. The power of the appellate Court to release on bail is independent of the power of the trial Court to suspend a sentence or order. Sub-section (3) of Section 389 is much relied upon and the said section reads as follows:-

> "Where the convicted person satisfies the Court by which he is convicted that he intends to present an appeal, the Court shall—
>
> (i) where such person, being on bail, is sentenced to imprisonment for a term not exceeding three years, or
> (ii) where the offence of which such person has been convicted is a bailable one, and he is on bail,
>
> order that the convicted person be released on bail unless there are special reasons for refusing bail,

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> for such period as will afford sufficient time to present the appeal and obtain the orders of the Appellate Court under sub-section (1) and the sentence of imprisonment shall, so long as he is so released on bail, be deemed to be suspended."

That section relates to a case where a person being on bail is sentenced to imprisonment for a term not exceeding three years or where the offence of which such person is convicted is a bailable one, and such person satisfies the Court by which he is convicted that he intends to present an appeal, the Court which imposes the conviction, in order to give an opportunity to such accused to present an appeal, suspend the sentence so long as he is so released on bail. In my opinion, this power vested in the trial Court to suspend the sentence is not applicable to the case on hand, more particularly, in case of an order passed by the State Bar Council by invoking Rule 14 of the Rules framed by this Court.

16. As regards the last contention that the right of an Advocate to practice cannot be taken away without affording opportunity, it would be proper to refer to the following judgments of the Supreme Court. Similar Rule 11 of the Kerala High Court Rules was framed in exercise of powers under Section 34(1) of the Advocates Act. Rule 11 of the Rules reads that "No Advocate who has been found guilty of contempt of Court shall be permitted to appear, act or plead in any Court unless he has purged himself of contempt". The validity of the said rule came up for consideration before the Supreme Court in "PRAVIN C.SHAH v. K.A.MOHD. ALI AND ANOTHER (2001 (8) SCC 650)" and was upheld. Again the said rule came up for consideration before the Supreme Court in "BAR COUNCIL OF INDIA v. HIGH COURT OF KERALA (2004 (6) SCC 311)". The judgment in Pravin Shah's case (supra) in upholding the validity of the said rule was affirmed again by the Supreme Court. In view of the law settled by the Supreme Court, the High Court, in exercise of powers under Section 34 of the Advocates Act, is entitled to frame rules preventing an Advocate from appearing in the Court.

17. The rule was framed concerning the dignity and orderly functioning of the Courts. As observed by Justice K.T.Thomas in Pravin Shah's case (supra), the right to appear and conduct cases in the Court is a matter on which the Court must have the major supervisory power and hence the Court cannot be divested of the control or supervision of the Court merely because it may involve the right of an Advocate. The core question raised by the petitioner is that whether the general council could invoke Rule 14 of the High Court Rules for prohibiting the petitioner from making appearance in the Court. Section 6(1)(d) envisages a power on the Bar Council to act in the interest of the Advocate. The general council of the Bar Council of Tamil Nadu has resolved to pass the impugned order. The contention of the petitioner is that the Rule cannot be invoked by the Bar Council in the manner in which the impugned order has been passed. As observed by K.T.Thomas, J. while speaking for the Bench in Pravin Shah's case, the rule is a self-operating provision.

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18. The first limb of the rule is in regard to the punishment for contempt and the second limb is for restriction to appear, act or plead in any Court unless such Advocate has purged himself of the contempt. By virtue of the second limb and by operation of the same, the petitioner is not entitled to appear, act or plead in any Court so long as he fails to purge the contempt. The power of the Bar Council to take action on an Advocate for professional or other misconduct, which could be exercised by disciplinary committee, cannot be mixed up with the power of the Bar Council to pass orders as an interim measure preventing an Advocate from practicing in the face of the fact that such Advocate was found guilty by a Court and he has not purged himself of the contempt. The impugned order has been passed pursuant to the directions of the Full Bench of this Court. The Full Bench order has to be read as a whole. The Full Bench has referred to the punishment imposed on the petitioner for contempt of Court by a Division Bench and imposed a fine of Re.1/= to be paid in one month. The Full Bench also referred to the pendency of suo motu contempt proceedings initiated by Justice S.S.Subramani in Suo Motu Contempt Petition No.33 of 1998 now pending before a Full Bench. The Full Bench also referred to the pendency of another suo motu contempt proceedings in no.301 of 2001 initiated by a Division Bench of this Court presided by K.Narayana Kurup, J. Similarly, pendency of another suo motu contempt proceedings in no.310 of 2001 initiated against the petitioner are pending before a Full Bench. The Bar Council of Tamil Nadu in the impugned order had referred to the order of the Full Bench in Suo Motu Contempt Petition No.1134 of 2003 dated 17.4.2004. It must therefore be held that the impugned order has been passed taking into consideration of all the above aspects. In the impugned order, the Bar Council has merely referred to Rule 14 of the Rules, which is a self-operating provision and for such provision no further opportunity need be given before the order is passed. As the impugned order prohibiting the petitioner from appearing in Court would be in operation only for such time either the petitioner purges the contempt or is absolved from the guilt of contempt by the Supreme Court, the said order cannot be called in any manner casting any stigma on the petitioner.

19. The next issue that falls for consideration is as to whether the Bar Council was well within its power in directing the petitioner to surrender the original enrollment certificate and the identity card issued to him. Though I have found that by virtue of Rule 14 of the Madras High Court Rules, the Bar Council is empowered to place reliance on the said Rule in order to prohibit an Advocate from appearing in Court, the said Rule cannot be stretched to confer power on the Bar Council to direct an Advocate to surrender his enrollment certificate and identity card. This conclusion could be arrived as the right of an Advocate is not only restricted to practice apart from appearing before Courts, but also to file Vakalat, draft pleadings, take instruction from clients etc. Such a right to file Vakalat, draft pleadings, take instruction from clients cannot be taken away by placing reliance on Rule 14 of the Rules, which relates only to the appearance of an Advocate in Court. The reliance

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placed by Mr.K.Venkatakrishnan on Section 6(1)(d) for issue of such direction is also unacceptable. I find every merit in the grievance of Mr.R.Kaaruppan in challenging the said direction. Hence, the impugned order in so far as it directs the petitioner to surrender the enrollment certificate and identity card issued to him is alone set aside and the other directions are sustained. The writ petition is partly allowed. No costs.

ss

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Secretary
   Bar Council of Tamil Nadu
   Chennai 600 104

2. Mr.R.Dhanapalraj,
   Chairman
   Bar Council of Tamil Nadu,
   Chennai 104.

Order in

W.P.No.30901 of 2004

GM(CO)
SR/8.9.2005

HIGH COURT OF JUDICATURE MADRAS
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